it—to set the record straight about their support of Mr. Wilson's outrageous claims. In the name of fairness, will they?

NOMINATIONS TO THE SIXTH CIRCUIT COURT

Mr. MCCONNELL. Mr. President, on another matter, we will be voting later this morning on the nominations of Henry Saad, David McKeague, and Richard Griffin to the Sixth Circuit Court of Appeals.

As this chart shows, the Sixth Circuit covers Michigan, Ohio, Kentucky, and Tennessee.

For the last 2 years, the Sixth Circuit has been trying to function with 25 percent of its seats empty. That vacancy rate is, as it has been, the highest vacancy rate in the Nation. Not surprisingly, the Judicial Conference has declared all four of these vacant seats to be ''judicial emergencies.''

For the last 3 years, I have taken to the floor to decry the crushing burden under which the Sixth Circuit operates. The years change but one seemingly immutable fact remains: The Sixth Circuit remains the slowest circuit in the Nation by far. According to the Administrative Office of the Courts, last year the Sixth Circuit was a full 60-percent slower than the national average. According to the AOC, the national average for disposing of an appeal is 10½ months, but in the Sixth Circuit it takes almost 17 months to decide an appeal. That means in another circuit, if you file your appeal at the beginning of the year, you get your decision around Halloween. But in the Sixth Circuit, if you file your appeal at the same time, you get your decision after the following Memorial Day, over a half a year later. If you can believe it, each year the disparity between the Sixth Circuit and its sister circuits gets worse.

In 2001 and 2002, the Sixth Circuit was the slowest circuit in the country, just like last year. In those years, the average time for decision was 15.3 and 16 months, respectively, but last year the delay jumped up to almost 17 months. So clearly my constituents and the other residents of the circuit are suffering more and more as the years go by.

What is the reason for this sorry state of affairs? An intra-delegation dispute from years ago when nearly a quarter of the current Senate wasn't even here. Nor, I might add, was the current President around for that dispute either. He, too, has nothing to do with it.

This dispute drags on year after year. As I understand it, although only two seats were involved in this dispute, six nominees, including four circuit nominees, continue to be bottled up.

Frankly, I don't know whose fault it was it has been so long. But I do know that neither the 4 million people in Kentucky, nor the 6 million people in Tennessee, nor the 11 million people in Ohio—nor their Senators—were any part of it.

They are all suffering for it, though, as are the 10 million people from Michigan.

The Michigan legislature has in fact passed a resolution calling on us, the U.S. Senate, to confirm these nominees. I ask consent that a copy of this resolution from the Michigan State Senate be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

SENATE RESOLUTION NO. 127

Whereas, The Senate of the United States is perpetuating a grave injustice and endangering the well-being of countless Americans, putting our system of justice in jeopardy in Michigan and the states of the Sixth Circuit of the federal court system; and

Whereas, The Senate of the United States is allowing the continued, intentional obstruction of the judicial nominations of four fine Michigan jurists: Judges Henry W. Saad, Susan B. Neilson, David W. McKeague, and Richard A. Griffin, all nominated by the President of the United States to serve on the United States 6th Circuit Court of Appeals; and

Whereas, This obstruction is not only harming the lives and careers of good, qualified judicial nominees, but it is also prolonging a dire emergency in the administration of justice. This emergency has brought home to numerous Americans the truth of the phrase ''justice delayed is justice denied''; and

Whereas, Both of Michigan's Senators continue to block the Judiciary Committee of the United States Senate from holding hearings regarding these nominees. This refusal to allow the United States Senate to complete its constitutional duty of advice and consent is denying the nominees the opportunity to address any honest objections to their records or qualifications. It is also denying other Senators the right to air the relevant issues and vote according to their consciences. This is taking place during an emergency in the United States 6th Circuit Court of Appeals with the backlog of cases; and

Whereas, We join with the members of Michigan's congressional delegation who wrote Chairman Orrin Hatch on February 26, 2003, to express their concern that ''if the President's nominations are permitted to be held hostage, for reasons not personal to any nominee, then these judicial seats traditionally held by judges representing the citizens of Michigan may be filled with nominees from other states within the Sixth Circuit. This would be an injustice to the many citizens who support these judges and who have given much to their professions and government in Michigan''; and

Whereas, We are concerned about the Sixth Circuit as a whole, a circuit court understaffed, with 4 of its 16 seats vacant, knowing that the Sixth Circuit ranks next to last out of the 12 circuit courts in the time it takes to complete its cases. Since 1996, each active judge has had to increase his or her number of decisions by 46%—more than three times the national average. In the recent past, the Sixth Circuit has taken as long as, 15.3 months to reach a final disposition of an appeal. With the national average at only 10.9 months, this means the Sixth Circuit takes over 40% longer than the national average to process a case; and

Whereas, The last time the Sixth Circuit was this understaffed, former Chief Judge Gilbert S. Merritt said that it was handling ''a caseload that is excessive by any standard.'' Judge Merritt also wrote that the court was ''rapidly deteriorating, understaffed and unable to properly carry out their responsibilities''; and

Whereas, Decisions from the Sixth Circuit are slower in coming, based on less careful deliberation, and, as a result, are less likely to be just and predictable. The effects on our people, our society, and our economy are far-reaching, including transaction costs. Litigation increases as people strive to continue doing business when the lines of swift justice and clear precedent are being blurred; and

Whereas, President Bush has done his part to alleviate this judicial crisis. Over the past two years, he has nominated eight qualified people to the Sixth Circuit Court of Appeals, with three of them designated to address judicial emergencies. Four of these nominees continue to languish without hearings because of the obstruction of the two Michigan Senators; Now therefore, be it

Resolved by the Senate, That we memorialize the United States Senate and Michigan's United States Senators to act to continue the confirmation hearings and to have a vote by the full Senate on the Michigan nominees to the United States 6th Circuit Court of Appeals; and be it further

Resolved, That copies of this resolution be transmitted to Michigan's United States Senators and to the President of the United States Senate.

Mr. MCCONNELL. Mr. President, that is 31 million people, who continue to suffer because our colleagues on the other side refuse to confirm any of these four Michigan nominees to the Sixth Circuit.

Indeed, two of the seats we are talking about were not even involved in this dispute. President Clinton never nominated anyone to the seat to which Henry Saad was nominated. That vacancy arose on January 1, 2000.

And the seat to which David McKeague was nominated did not even become vacant until the current Bush administration on August 15, 2001.

So what the Senators from Michigan seek to do is hold up one-fourth of an entire circuit because of a past intra-delegation dispute about two of these six seats, the genesis of which occurred many years ago.

As to disputes on judicial nominees, the Senators from Michigan do not have a monopoly on disappointment. There are several Republican nominees who were nominated by George H.W. Bush, who waited a year or more for a hearing, and who never got one. I note Sixth Circuit nominee John Smietanka, D.C. Circuit nominee John Roberts and Fourth Circuit nominee Terry Boyle, just to name a few.

The remedy for disappointment is not to take out your frustration on the populace of an entire circuit. Nor is it to demand that a President cede his constitutional power to another branch. It is to do what this President has done: re-nominate the person when your party is in the Oval Office.

Let us be clear. We are not talking about any particular problems with the nominees, including Judge Saad, who would be the first Arab-American on any Federal circuit court and who has been endorsed by both the Chamber of Commerce and the United Auto Workers. That is a pretty tall order.

Quite frankly, it wouldn't matter who from Michigan the President put in the slot: if his name were Henry Ford rather than Henry Saad the result would be the same—my colleagues from Michigan would filibuster the nominee.

Why? Presumably because the Michigan Senators didn't get to pick Judge Saad or other Michigan nominees to the Sixth Circuit.

What we are talking about, then, is Senators wanting to adorn themselves with the power of co-nomination.

Let us get back to first principles. Democrat Senators do not get to pick circuit court judges in Republican administrations. In fact, Republican Senators—myself included—do not get to pick circuit court judges in Republican administrations.

The Constitution gives the power to the President, and the President alone, to nominate. We all know as a matter of custom that Senators have a good deal of influence over who gets to be a district judge but little or no influence over who gets to be a circuit judge. Presidents of both parties have been unwilling to delegate the picking of circuit court judges to Senators. It is a Presidential prerogative and we shouldn't rewrite the Constitution to allow Senators—especially those of the opposite party—to nominate judges.

By tradition, the President may consult with individual Senators. But the tradition of ''consultation'' does not transform individual Senators into co-Presidents.

The President is not required to share his constitutional power with Senators, or with a ''non-partisan'' commission for that matter.

We have started a new precedent around here by filibustering judges; this is something that I and the vast majority of the Republican caucus opposed during the Clinton administration and refused to engage in, although Republicans had profound differences with many Clinton nominees.

In fact, 95 percent of the current Senators who never voted for a judicial filibuster are Republicans.

Let me say that again.

Ninety-five percent of the current Senators who never voted for a judicial filibuster are Republicans.

Our Democrat friends have started this troubling precedent. They have filibustered seven nominees and are now approaching double digits.

If my Democrat friends want to set another precedent, namely that Senators in opposite parties get to pick a President's circuit court nominees, I have news for you: this precedent may well be used when there's a Democrat in the Oval Office whether that is next year or next decade.

In closing, I don't get to pick Republican circuit nominees, and I don't think Democrats should get to do so in a Republican administration either. That is the President's job.

The Senate may establish a contrary precedent today. But if it does, I and other Republican Senators may invoke it the next time there is a Democrat in the White House. So I urge my Democrat friends to be wary of the steps they are taking because they are leading us down a dangerous path from which there may be no return.

The PRESIDING OFFICER. The Senator from Nevada.

APPROVAL OF JUDGES

Mr. REID. Mr. President, I can remember a famed lawyer named Melvin Belli who came to Las Vegas to try a case. The law at the time was you had to associate with a local attorney. Belli was very articulate and was so good at speaking to the court and the jury. When he finished, the Las Vegas lawyer stood and said, well, what he meant to say. This same lawyer said: When in doubt, wave your arms, scream and shout.

I think that is what we heard today on the Senate floor.

But what is really present in the Senate is the fact that we have approved 199 judges. We have turned down 6. There are crocodile tears that really are not necessary.

In this situation, if we followed the Republican rule established by the Thurmond rule, there would be no judges approved during the month of July. But we have indicated that we would be willing to approve judges during the month of July, and we have done that. I have spoken to a number of Republican Senators who indicated we would do that. The situation involving these three involve not only substance but procedure—199 to 6. That is the rule.

On behalf of Senator DASCHLE, I ask unanimous consent Senator LANDRIEU be recognized for 10 minutes and Senator SCHUMER be recognized for 15 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Louisiana is recognized.

COLONEL JON M. ''JAKE'' JONES

Ms. LANDRIEU. Mr. President, I rise today to honor an exemplary soldier, a loyal American, a loving father, and a devoted husband. Our friend and neighbor, Colonel Jon Jones passed away on June 6 after a courageous battle with brain cancer that he waged on his own terms. Until the week of his death, Jon lived life to the fullest and did not allow cancer to define him or to diminish his dream. Rather, he chose to be a husband, father and soldier until the end. His death has been a profound loss to his colleagues in the Army, his neighbors, his friends, and especially to his family. I say to his wife Cynthia, to his two children Nick and Lena, who are here with us today, our Nation is grateful for your family's service and sacrifice.

Jon was born and raised in California. His mother was a teacher, and the influence she had on him was apparent throughout his life. He attended high school outside of Sacramento, and graduated from Cal State at Sacramento. He went the extra mile to participate in the ROTC program at UC-Davis, because his own school had abolished ROTC during the Vietnam war.

He graduated in 1980 as a distinguished military graduate and was commissioned as a regular Army military intelligence officer. He met Cynthia while he was in officers' basic course in Arizona, and they married in 1981. His career in the Army took Cynthia, Nick, and Lena to Turkey, Germany, and South Korea; and his last deployment was to Kuwait and to Iraq.

Jon died two weeks shy of serving 24 years in the U.S. Army and only 12 days from his change of command. For almost 2 years he successfully led the Army's only deployable echelons-above-corps contingency force protection military intelligence brigade. The men and women who served under him, as well as his colleagues and senior officers, testified to his leadership in a time of war. One soldier called it a privilege to be under Colonel Jones' command, and described his strength and leadership as going well beyond what this soldier had seen in any other military officer.

Throughout the war, in addition to his mission, Jon's focus was on the health, welfare, and safety of every soldier and civilian who served with him. When his brigade was deployed for 9 months to support Operation Enduring Freedom and Operation Iraqi Freedom, he succeeded in that mission and brought every one of his soldiers home.

A month after bringing his brigade home, Jon was diagnosed with an aggressive brain tumor. He was entitled to retirement, but he chose instead to stay in the Army. As he told a colleague: ''Quitting was not an option.'' Another person might have headed for the shore and waited for his time in comfortable surroundings, but this was not the path for Jon Jones.

At the time of his diagnosis, he had a battalion preparing to redeploy to Iraq, and the thought of leaving them went against everything he stood for. In fact, in the months preceding his death, in between his own treatments and surgeries, Jon went to Kuwait and Iraq several times to support and bolster his troops.

Before he passed away, Jon was nominated for the Distinguished Service Medal, for unparalleled dedication to duty. This citation states that his accomplishments will have a lasting effect on national security formulation at the highest levels. Later today, in a room near this distinguished Chamber, Jon's widow Cynthia will accept this medal on her husband's behalf.

Jon's commanding generals, some of whom are also with us today, accepted his decision to stay in the Army and continue in command throughout his treatments. Perhaps they would have